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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,876	05/05/2005	Mats Johansson	027651-267	9663
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EXAMINER TRUONG, THANH K				
ART UNIT 3721		PAPER NUMBER		
NOTIFICATION DATE 08/25/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

### Office Action Summary

**Application No.**

10/533,876

**Applicant(s)**

JOHANSSON ET AL.

**Examiner**

THANH K. TRUONG

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 and 23-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-18 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 7, 8 and 23-32 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 6, 9 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to applicant's RCE received on June 16, 2008.
2. Applicant's cancellation of claims 19-22 is acknowledged.
3. New claims 27-32 are added. Claims 1-18 and 23-32 are pending in the application.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 5, 7, 8, 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wakabayashi et al. (EP 0 466 271 A1).

Wakabayashi et al. discloses an apparatus comprising:

Regarding claims 1 and 26, at least one pair of sealing halves (36) being reciprocally movable toward and away from each other from an open position to a closed position, and one of the sealing halves comprising sealing means (61, 71) for sealingly closing the open end of the package (Figs. 1-6) – Wakabayashi et al. discloses two embodiments, the embodiment of Fig. 1 and the embodiment of Fig. 5, and it is construed that they both are applicable to the claimed invention as recited;

forming means for forming the package comprising a pair of forming flaps (62, 72), each forming flap being associated with a respective one of the sealing halves and

each forming flap possessing a first end pivotally attached to a support (with the link 44 – Figs. 1-6 show the pivotal attached between link 44 and sealing halves 36. It should be pointed out that the sealing means and the forming flaps are integrally formed for the embodiment of Fig. 1);

each forming flap being directly pushed by the respective sealing half during movement of the respective sealing half towards the closed sealing position to pivotally move each of the forming flaps toward the package to press two opposing portions of the package towards each other (Figs. 1-6) – as mentioned above, the forming flap and the sealing half are moved together, thus it is construed that the forming flap are being pushed directly by the sealing half.

Regarding claims 4, 5 and 7, wherein the apparatus comprises at least three pairs of linkage (36, 43 & 45); and each of the forming flaps is attached at its first end to one end of a respective upstanding arm (42).

Regarding claim 8, wherein each of the forming flaps is generally T-shaped – Fig. 1 shows the sealing half (36) has the T-shaped configuration where the forming flap (62) forms the overhead horizontal leg of the T.

Regarding claims 23-25, each of the forming flap being mounted for pivoting movement relative to a respective one of the package engaging members (Figs. 1, 2 & 5); wherein each package engaging member is U-shaped to engage plural sides of the package (Fig. 5), and wherein each forming flap is pivotally mounted on the respective package engaging member – between member (36) and link (44).

6. Claims 1, 4, 5, 7-8, 23 and 26-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Lohse et al. (3,220,161).

Lohse et al. discloses an apparatus comprising:

Regarding claims 1 and 26, at least one pair of sealing halves being reciprocally movable toward and away from each other from an open position to a closed position, and one of the sealing halves comprising sealing means (70) for sealingly closing the open end of the package (Fig. 6);

forming means for forming the package comprising a pair of forming flaps (102), each forming flap being associated with a respective one of the sealing halves and each forming flap possessing a first end pivotally attached to a support – member (102) is pivotally attached to the support at the point where arms 72 and 73 are being pivoted (Fig. 6);

each forming flap being directly pushed by the respective sealing half during movement of the respective sealing half towards the closed sealing position to pivotally move each of the forming flaps toward the package to press two opposing portions of the package towards each other – the forming flap and the sealing half are moved together, thus it is construed that the forming flap are being pushed directly by the sealing half.

Regarding claims 4, 5 and 7, wherein the apparatus comprises at least three pairs of linkage (72, 73 & 81); and each of the forming flaps is attached at its first end to one end of a respective upstanding arm (72, 73).

Regarding claim 8, wherein each of the forming flaps is generally T-shaped – Fig. 6 shows member (102) form a T-shaped with arm (72).

Regarding claim 23 & 25, each of the forming flap being mounted for pivoting movement relative to a respective one of the package engaging members (Fig. 6), and wherein each forming flap is pivotally mounted on the respective package engaging member.

Regarding claims 27-32, a frame and a motor (not number), a plate-shaped member (21), and the motor being positioned vertically below the plate-shaped member (Fig. 3), a cam disk (47, 54, 65), and the cam disk being positioned vertically below the plate shaped-member; vertically oriented guide (grooves formed on the cam disk), a carrier slidably mounted on the guide (66, 55) to provide sliding movement of the sealing halves and the forming flaps.

#### ***Allowable Subject Matter***

7. Claims 2, 3, 6, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 11-18 are allowed.

#### ***Response to Arguments***

9. Applicant's arguments filed June 16, 2008 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THANH K. TRUONG whose telephone number is (571)272-4472. The examiner can normally be reached on Mon-Fri 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkk  
August 16, 2008.

/Thanh K Truong/  
Primary Examiner, Art Unit 3721.